

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

EXPLORICA, INC.

Plaintiff,

v.

ELDERHOSTEL, INC.
d/b/a EXPLORITAS,

Defendant.

Civil Action No. 09-11719

PLAINTIFF EXPLORICA, INC.’S MOTION FOR PRELIMINARY INJUNCTION

Pursuant to Rule 65 of the Federal Rules of Civil Procedure, plaintiff Explorica, Inc. (“Explorica”) hereby respectfully requests that this Court issue a preliminary injunction that enjoins defendant Elderhostel, Inc. (d/b/a “Exploritas”) and its employees, agents, servants, and all in privity with any of it, from using the mark EXPLORITAS, or any designations confusingly similar to Explorica’s EXPLORICA Mark, in connection with educational travel services.

Explorica owns an incontestable federal trademark registration in the EXPLORICA Mark for “tour guide services and travel arrangement services and travel information services provided on a global computer network.” Elderhostel has recently adopted and is using the confusingly similar EXPLORITAS Mark to identify identical services, marketed through identical channels of trade and advertised to an overlapping class of purchasers. Furthermore, Elderhostel adopted and is using this infringing mark despite being aware of Explorica’s existing EXPLORICA Mark. Elderhostel’s use of the EXPLORITAS Mark has already caused (and is likely to cause more) confusion, mistake, or deception, and otherwise injure Explorica’s goodwill.

In support of this Motion, Explorica submits the accompanying Memorandum in Support and the Declarations of Olle A. Olsson, Marc Mann, Kestrel Dunn, Stephane Cosse, and Michael T. Jones.

WHEREFORE, Explorica respectfully requests that this Court grant Explorica's Motion for Preliminary Injunction and award its requested relief in the form of the proposed Order submitted herewith.

REQUEST FOR ORAL ARGUMENT

Explorica believes that oral argument would assist the Court in consideration of the issues presented in this Motion and, accordingly, request to be heard on this Motion pursuant to Local Rule 7.1(d).

Respectfully submitted,

EXPLORICA, INC.,

By its attorneys,

Dated: November 3, 2009

/s/ Mark S. Puzella
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LOCAL RULE 7.1(A)(2) CERTIFICATE AND CERTIFICATE OF SERVICE

I certify pursuant to Local Rule 7.1(A)(2) that counsel for Explorica conferred in good faith with opposing counsel on November 2, 2009 concerning the matter set forth herein and the parties were unable to reach an agreement.

I further certify that this document and the accompanying Memorandum of Law and related declarations and declarations filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) on November 3, 2009.

/s/ Michael T. Jones

Michael T. Jones